

HB4095



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4095

by Rep. Michael J. Madigan

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 2012. Makes a technical change in a Section concerning domestic battery.

LRB098 15653 RLC 50684 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 12-3.2 as follows:

6 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

7 Sec. 12-3.2. Domestic battery.

8 (a) A person commits domestic battery if he or she
9 knowingly without legal justification by any means:

10 (1) Causes bodily harm to any family or household
11 member;

12 (2) Makes physical contact of an insulting or provoking
13 nature with any family or household member.

14 (b) Sentence. Domestic battery is a Class A misdemeanor.
15 Domestic battery is a Class 4 felony if the ~~the~~ defendant has
16 any prior conviction under this Code for violation of an order
17 of protection (Section 12-3.4 or 12-30), or any prior
18 conviction under the law of another jurisdiction for an offense
19 which is substantially similar. Domestic battery is a Class 4
20 felony if the defendant has any prior conviction under this
21 Code for first degree murder (Section 9-1), attempt to commit
22 first degree murder (Section 8-4), aggravated domestic battery
23 (Section 12-3.3), aggravated battery (Section 12-3.05 or

1 12-4), heinous battery (Section 12-4.1), aggravated battery
2 with a firearm (Section 12-4.2), aggravated battery with a
3 machine gun or a firearm equipped with a silencer (Section
4 12-4.2-5), aggravated battery of a child (Section 12-4.3),
5 aggravated battery of an unborn child (subsection (a-5) of
6 Section 12-3.1, or Section 12-4.4), aggravated battery of a
7 senior citizen (Section 12-4.6), stalking (Section 12-7.3),
8 aggravated stalking (Section 12-7.4), criminal sexual assault
9 (Section 11-1.20 or 12-13), aggravated criminal sexual assault
10 (Section 11-1.30 or 12-14), kidnapping (Section 10-1),
11 aggravated kidnapping (Section 10-2), predatory criminal
12 sexual assault of a child (Section 11-1.40 or 12-14.1),
13 aggravated criminal sexual abuse (Section 11-1.60 or 12-16),
14 unlawful restraint (Section 10-3), aggravated unlawful
15 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),
16 or aggravated discharge of a firearm (Section 24-1.2), or any
17 prior conviction under the law of another jurisdiction for any
18 offense that is substantially similar to the offenses listed in
19 this Section, when any of these offenses have been committed
20 against a family or household member. Domestic battery is a
21 Class 4 felony if the defendant has one or 2 prior convictions
22 under this Code for domestic battery (Section 12-3.2). Domestic
23 battery is a Class 3 felony if the defendant had 3 prior
24 convictions under this Code for domestic battery (Section
25 12-3.2). Domestic battery is a Class 2 felony if the defendant
26 had 4 or more prior convictions under this Code for domestic

1 battery (Section 12-3.2). In addition to any other sentencing
2 alternatives, for any second or subsequent conviction of
3 violating this Section, the offender shall be mandatorily
4 sentenced to a minimum of 72 consecutive hours of imprisonment.
5 The imprisonment shall not be subject to suspension, nor shall
6 the person be eligible for probation in order to reduce the
7 sentence.

8 (c) Domestic battery committed in the presence of a child.
9 In addition to any other sentencing alternatives, a defendant
10 who commits, in the presence of a child, a felony domestic
11 battery (enhanced under subsection (b)), aggravated domestic
12 battery (Section 12-3.3), aggravated battery (Section 12-3.05
13 or 12-4), unlawful restraint (Section 10-3), or aggravated
14 unlawful restraint (Section 10-3.1) against a family or
15 household member shall be required to serve a mandatory minimum
16 imprisonment of 10 days or perform 300 hours of community
17 service, or both. The defendant shall further be liable for the
18 cost of any counseling required for the child at the discretion
19 of the court in accordance with subsection (b) of Section 5-5-6
20 of the Unified Code of Corrections. For purposes of this
21 Section, "child" means a person under 18 years of age who is
22 the defendant's or victim's child or step-child or who is a
23 minor child residing within or visiting the household of the
24 defendant or victim.

25 (d) Upon conviction of domestic battery, the court shall
26 advise the defendant orally or in writing, substantially as

1 follows: "An individual convicted of domestic battery may be
2 subject to federal criminal penalties for possessing,
3 transporting, shipping, or receiving any firearm or ammunition
4 in violation of the federal Gun Control Act of 1968 (18 U.S.C.
5 922(g)(8) and (9))." A notation shall be made in the court file
6 that the admonition was given.

7 (Source: P.A. 97-1109, eff. 1-1-13; 98-187, eff. 1-1-14.)